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**To:** EXAMINER D. H. KRUSE  
USPTO**Facsimile:** 571-273-0799  
**Telephone:** 571-272-0799**From:** Michael R. Ward (Reg. No. 38,651)**Date:** January 23, 2004

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**OUR DOCKET NO: 499962000700****APPLICANT: Nathan K. OLIVAS et al.****ART UNIT: 1638****SERIAL NO: 10/052,061****EXAMINER: D. H. Kruse****FILED: January 16, 2002****TITLE: PACER LETTUCE VARIETY****Comments:**

Pursuant to our conversation of today, please find the attached.

**PAPERS ATTACHED FOR THIS FACSIMILE:**

1. Copy of Response to Office Action of June 17, 2003 as filed July 18, 2003 - 12 pgs

**>>CONFIRMATION OF RECEIPT REQUESTED<<**

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ATTORNEY DOCKET: 499962000700

MRW1/LX03

USSN: 10/052,061

FILED: January 16, 2002

INVENTOR(S): Nathan K. OLIVAS and Nathan J. OLIVAS

TITLE: PACER LETTUCE VARIETY

Papers enclosed: Response to Office Action M 6/17/03

DATE MAILED: July 18, 2003

 TRANSMITTAL - 1 pg RESPONSE TO OFFICE ACTION  
MAILED JUNE 17, 2003, PAPER 3 - 9  
pgs COURTESY COPIES OF: Deposit  
information letter from the ATCC  
indicating deposit number for Pacer - 1 pg \$ -0- AUTHORIZED TO BE CHARGED TO  
DEPOSIT ACCOUNTPREVIOUSLY  
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission	11	Application Number	10/052,061
		Filing Date	January 16, 2002
		First Named Inventor	Nathan K. OLIVAS and Nathan J. OLIVAS
		Group Art Unit	1638
		Examiner Name	D. H. Kruse

<b>ENCLOSURES (check all that apply)</b>			
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group	
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences	
<input checked="" type="checkbox"/> RESPONSE TO OA M 6/17/03, PAPER 3 - 9 pgs	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)	
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information	
<input type="checkbox"/> Affidavits/declarations	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter	
<input type="checkbox"/> Extension of Time Request (2 mos)	<input type="checkbox"/> Power of Attorney, Revocation	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): RETURN RECEIPT POSTCARD	
	<input type="checkbox"/> Change of Correspondence Address		
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Courtesy copy of deposit information letter from the ATCC indicating deposit number for Pacer - 1 pg	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund		
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____		
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application		Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53			

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

Firm or Individual Name	Morrison & Foerster LLP 425 Market Street, San Francisco, CA 94105-2842 Michael R. Ward (Reg. No. 38,691)
Signature	
Date	July 18, 2003

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP: BOX NON-FEE AMENDMENT, Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450 on July 18, 2003.

  
LILIA OLSEN

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**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

***INTERNATIONAL FORM***

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

To: (Name and Address of Depositor or Attorney)

Morrison & Foerster LLP  
Attn: Michael R. Ward  
425 Market Street  
San Francisco, CA 94105

Deposited on Behalf of: Progeny Advanced Genetics

Identification Reference by Depositor:	Patent Deposit Designation
Lactuca sativa: Sun Devil (Ref: Docket or Case No.: 49996-20002.00)	PTA-4008
Lactuca sativa: Legend(Ref: Docket or Case No.: 49996-20011.00)	PTA-4009
Lactuca sativa: Pacer (Ref: Docket or Case No.: 49996-20007.00)	PTA-4010
Lactuca sativa: Icon (Ref: Docket or Case No.: 49996-20010.00)	PTA-4011

The seeds were accompanied by: \_\_\_\_\_ a scientific description a proposed taxonomic description indicated above.  
The seeds were received January 24, 2002 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the seeds for 30 years.

The seeds will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the seeds and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said seeds.

If the seeds should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with viable seeds of the same.

The seeds will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the seeds cited above was tested January 28, 2002. On that date, the seeds were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

Marie Harris  
\_\_\_\_\_  
Marie Harris, Patent Specialist, Patent Depository

Date: February 7, 2002

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